

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES DEAN WILKS,

Petitioner,

v.

REED HOLTGEERTS,

Respondent.

Case No. C05-0235

ORDER

Petitioner has filed a 28 U.S.C. § 2254 petition for writ of *habeas corpus*. Dkt. No. 7. In it, petitioner raises several grounds for relief from two sentences imposed by the Seattle Municipal Court in 2003. Dkt. No. 7. In his answer, respondent argues, among other things, that the petition should be dismissed because petitioner has failed to exhaust his claims in state court. Dkt. No. 15.

It is not possible to resolve this matter based on the record before the Court. The state court record shows that the Washington Supreme Court construed a letter from petitioner as a motion for discretionary review and that it denied that motion. *See* Dkt. No. 42, Exs. 29, 30. The letter, however, raises no claims. Rather, it requests the court to re-open a personal restraint petition that petitioner filed in the Washington Court of Appeals (file no. 5505-6-1). Dkt. No. 42, Ex. 29. Because the Supreme Court's Ruling Denying Review makes reference

01 to petitioner's "several claimed errors," it appears that additional documents were before that
02 court. Dkt. No. 42, Ex. 30. The Court therefore ORDERS as follows:

03 (1) Respondent is ORDERED to provide the Court with a copy of the PRP
04 referred to in docket number 42, exhibit 29, (file no. 5505-6-1), so that it can determine
05 whether petitioner's claims have been properly exhausted. *See* Rule 7 of the Rules Governing
06 § 2254 Cases in the United States District Courts. If respondent believes the proper document
07 is already contained in the record, he is further ordered to instruct the Court where in the
08 record it is located. Alternatively, if respondent believes no such document exists, he is
09 directed to inform the Court to that effect. Respondent shall have **until July 8, 2005** to
10 comply with this order.

11 (2) The Clerk is directed to re-note this matter for Friday, July 8, 2005.

12 (3) The Clerk is directed to send copies of this order to petitioner, counsel for
13 respondent, and to the Honorable Ricardo S. Martinez.

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15 DATED this 8th day of June, 2005.

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17 JAMES P. DONOHUE
18 United States Magistrate Judge
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